

110TH CONGRESS  
1ST SESSION

# S. 1735

To amend title 49, United States Code, to improve dispute resolution provisions related to the Federal Aviation Administration personnel management system.

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IN THE SENATE OF THE UNITED STATES

JUNE 28, 2007

Mr. SCHUMER introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## A BILL

To amend title 49, United States Code, to improve dispute resolution provisions related to the Federal Aviation Administration personnel management system.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. IMPROVEMENT OF DISPUTE RESOLUTION PRO-**  
4 **VISIONS RELATED TO FEDERAL AVIATION**  
5 **ADMINISTRATION PERSONNEL MANAGEMENT**  
6 **SYSTEM.**

7 (a) IN GENERAL.—Section 40122(a)(2) of title 49,  
8 United States Code, is amended to read as follows:

9 “(2) DISPUTE RESOLUTION.—

1           “(A) MEDIATION.—If the Administrator  
2           does not reach an agreement under paragraph  
3           (1) or subsection (g)(2)(C) with the exclusive  
4           bargaining representatives, the services of the  
5           Federal Mediation and Conciliation Service  
6           shall be used to attempt to reach such agree-  
7           ment in accordance with part 1425 of title 29,  
8           Code of Federal Regulations. The Adminis-  
9           trator and bargaining representatives may by  
10          mutual agreement adopt procedures for the res-  
11          olution of disputes or impasses arising in the  
12          negotiation of a collective-bargaining agree-  
13          ment.

14          “(B) BINDING ARBITRATION.—

15               “(i) IN GENERAL.—If the services of  
16               the Federal Mediation and Conciliation  
17               Service under subparagraph (A) do not  
18               lead to an agreement, the Administrator  
19               and the bargaining representatives shall  
20               submit their issues in controversy to the  
21               Federal Service Impasses Panel in accord-  
22               ance with section 7119 of title 5.

23               “(ii) ASSISTANCE BY FEDERAL SERV-  
24               ICE IMPASSES PANEL.—The Federal Serv-  
25               ice Impasses Panel shall assist the parties

1 in resolving the impasse by asserting juris-  
2 diction and ordering binding arbitration by  
3 a private arbitration board consisting of 3  
4 members in accordance with section  
5 2471.6(a)(2)(ii) of title 5, Code of Federal  
6 Regulations.

7 “(iii) SELECTION OF ARBITRATORS.—

8 The executive director of the Federal Serv-  
9 ice Impasses Panel shall request a list of  
10 not less than 15 names of arbitrators with  
11 Federal sector experience from the director  
12 of the Federal Mediation and Conciliation  
13 Service to be provided to the Administrator  
14 and the bargaining representatives. Not  
15 later than 10 days after the executive di-  
16 rector receives the list, each party shall  
17 each select an arbitrator. The 2 selected  
18 arbitrators shall then select a third arbi-  
19 trator from the list within 7 days. If the 2  
20 arbitrators are unable to agree on selection  
21 of the third arbitrator, the parties shall se-  
22 lect the third arbitrator by alternately  
23 striking names from the list until only 1  
24 name remains.

1           “(iv) FRAMING THE ISSUES.—If the  
2 parties do not agree on how to frame the  
3 issues to be submitted for arbitration, the  
4 arbitration board shall frame the issues.

5           “(v) FULL AND FAIR HEARING.—The  
6 arbitration board shall give the parties a  
7 full and fair hearing, including an oppor-  
8 tunity to present evidence in support of  
9 their claims, and an opportunity to present  
10 their case in person, by counsel, or by  
11 other representative as they may elect.

12           “(vi) CONCLUSIVE AND BINDING DE-  
13 CISIONS.—A decision of the arbitration  
14 board shall be conclusive and binding upon  
15 the parties of the arbitration.

16           “(vii) TIMING OF DECISION.—Not  
17 later than 90 days after the date of the ap-  
18 pointment of the arbitration board, the ar-  
19 bitration board shall render a decision.

20           “(viii) COST SHARING.—The Adminis-  
21 trator and the bargaining representative  
22 shall share the costs of the arbitration  
23 equally.

1 “(ix) CONSIDERATIONS.—The arbitra-  
2 tion board shall consider the effect of its  
3 arbitration decisions on—

4 “(I) the ability of the Adminis-  
5 trator to attract and retain a qualified  
6 workforce; and

7 “(II) the budget of the Federal  
8 Aviation Administration.

9 “(C) EFFECT.—Upon reaching a voluntary  
10 agreement or at the conclusion of the binding  
11 arbitration under subparagraph (B), the final  
12 agreement, except for those matters decided by  
13 the arbitration board, shall be subject to ratifi-  
14 cation by the exclusive representative, if so re-  
15 quested by the exclusive representative, and ap-  
16 proval by the head of the agency in accordance  
17 with subsection (g)(2)(C).

18 “(D) ENFORCEMENT.—Enforcement of the  
19 provisions of this paragraph, and any agree-  
20 ment hereunder, shall be in the United States  
21 District Court for the District of Columbia.”.

22 (b) EFFECTIVE DATE.—Paragraph (2) of section  
23 40122(a) of title 49, United States Code, as amended by

- 1 subsection (a), shall apply to disputes described in section
- 2 40122 of such title arising on or after July 10, 2005.

